

This Case Law Update Provided by:
**Children's Law Center
of Indiana**



"In pursuit of a consistent, efficient, and effective Juvenile Justice System"

Delinquency

12/15/2004

In **J.B.v. State**, 819 N.E.2d 137 (Ind. Ct. App. 2004), the Court affirmed the juvenile court's order that the juvenile register as a sex offender. When the juvenile was seventeen years old, he was adjudicated a delinquent because he committed child molesting and indecent exposure. He was sentenced to a suspended commitment to the Department of Correction and was ordered to serve detention and attend sex offender counseling. Subsequently, the juvenile's probation officer filed a petition alleging the juvenile had violated his probation, and the juvenile court so found. The juvenile was on house arrest pending the dispositional hearing, after which the court ordered the juvenile placed in the DOC until he was twenty-one years old. The DOC would not accept him, however, because he had turned eighteen. Then, after a hearing, the court agreed with the State that the juvenile was likely to re-offend and ordered him to register as a sex offender within seven days. On appeal, the juvenile argued that "he cannot be an 'offender' because he was neither on probation or parole, nor had he been discharged from the DOC." He alleged that he was removed from probation in October of 2003 when the court placed him on home detention and he "was never actually in detention in any secured facility," because the DOC would not accept him.

The Court held that, contrary to the juvenile's contention, he was "in detention" in that he was placed in the Department of Correction (DOC) by the juvenile court and then released by the DOC. Such discharge from the DOC is an event that gives the juvenile court authority to require the juvenile to register as a sex offender. See IC 5-2-12-4(b). Further, the juvenile court ordered that the juvenile be placed in the Grant County Juvenile Detention center pending transport to the DOC. Therefore, the juvenile was released from "a juvenile detention facility," another event that triggers the trial court's authority to order a child to register as a sex offender. IC 5-2-12-4(b)(2). *Id.* at 139-40. The Court cited *Rowe v. State*, 813 N.E.2d 1232, 1234 (Ind. Ct. App. 2004) (holding defendant was detained for purposes of failure to return to lawful detention statute when he was at court for sentencing hearing and received his sentence) and *Anglin v. State*, 787 N.E.2d 1012, 1017 (Ind. Ct. App. 2003) (holding defendant was under lawful detention by the Sheriff's Department prior to being picked up by transport officer because trial court sentenced him to serve one year and ordered him to wait in the hall for the transport officer.) *Id.* IC 5-2-12-4(b) defines when a child may be ordered to register as a sex offender:

The term includes a child who has committed a delinquent act and who:

- (1) is at least fourteen (14) years of age;
- (2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility ... or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
- (3) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.